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2012 JUL 19 PM 3:49

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
RIVERSIDE

BY: 

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ANGEL PERALTA,

Plaintiff,

v.

IVANIA VARGAS,

Defendant.

Case No. EDCV 12-1097-UA (DUTYx)

ORDER RE: SUMMARY REMAND  
DUE TO IMPROPER REMOVAL

On July 3, 2012, Haydee Del Carmen Martinez, lodged a Notice Of Removal, a Complaint for unlawful detainer and damages, and an application to proceed *in forma pauperis*. Plaintiff has brought suit in a straight-forward unlawful detainer action in the San Bernardino County Superior Court, Fontana Branch. The Court has denied the aforementioned application under separate cover because this action was not properly removed. As a result, the Court issues this Order to remand the action to state court.

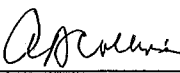
Plaintiff could not have brought this action in federal court based on federal question jurisdiction because the underlying matter is a straight-forward unlawful detainer action. 28 U.S.C. §§ 1331, 1441(a). Further, assuming a claim of diversity jurisdiction was to be asserted as a basis for removal, the Court notes Plaintiff in the unlawful detainer action seeks damages which do not exceed the \$75,000 threshold,

1 excluding interest and costs. 28 U.S.C. §§ 1332(a), 1441(b).

2 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the  
3 Superior Court of California, San Bernardino County, Fontana Branch, 17780 Arrow  
4 Boulevard, Fontana, California 92335, for lack of subject matter jurisdiction pursuant to  
5 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this Order to the state  
6 court; and (3) that the Clerk serve copies of this Order on the parties.

7  
8 **IT IS SO ORDERED.**

9  
10 DATED: 7/17/, 2012

  
11 HONORABLE AUDREY B. COLLINS  
12 Chief United States District Judge

13 Presented by:

14   
15 HONORABLE OSWALD PARADA  
16 United States Magistrate Judge